



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE961

Magnuson-Stevens Fishery Conservation and Management Act; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Regional Administrator, NMFS West Coast Region, has determined that an application for an exempted fishing permit (EFP) warrants further consideration and requests public comment on the application. The application requests 2-year exemptions from various prohibitions under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) to test the effects and efficacy of using deep-set buoy gear (DSBG) to fish for swordfish and other highly migratory species (HMS) off the U.S. West Coast. This notice also announces NMFS' intent to extend two current DSBG EFPs through 2018 and also requests public comment on these EFPs.

DATES: Comments must be submitted in writing by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2016-0133, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the

Federal e-Rulemaking Portal. Go to

www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0133, click the

“Comment Now!” icon, complete the required fields, and enter or attach your comments. EFP applications will be available under Relevant Documents through the same link.

- Mail: Attn: Chris Fanning, NMFS West Coast Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2016-0133” in the comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Chris Fanning, NMFS, West Coast Region, 562-980-4198.

SUPPLEMENTARY INFORMATION:

In August 2015 NMFS issued three EFPs for fishing vessels to use DSBG in the exclusive economic zone (EEZ) off the U.S. West Coast (DSBG is described as multiple hooks deployed relatively deep in the water column, using one or more weighted mainlines which are suspended with one or more buoys floating on the ocean surface) (80 FR 29662, May 22, 2015). DSBG fishing under two of these EFPs has been ongoing in 2015-2016, and the Pacific Fishery

Management Council (Council) recommended these both be extended through the 2017 – 2018 fishing season (<http://www.pcouncil.org/wp-content/uploads/2016/03/0316decisions.pdf>).

In addition to the request for the two extensions, a new DSBG EFP application was submitted to the Council by Dave Stephens for two additional vessels to conduct DSBG fishing activities (herein referred to as the “Stephens EFP”) (<http://www.pcouncil.org/wp-content/uploads/2016/07/0616decisions.pdf>). At its September 2016 meeting, the Council recommended that NMFS issue the Stephens EFP (<http://www.pcouncil.org/wp-content/uploads/2016/09/0916decisions.pdf>).

If the two extensions and the Stephens EFP are approved, they would exempt a limited number of federally permitted commercial fishing vessels from requirements of the HMS FMP pertaining to non-authorized gear types. The EFPs would authorize up to 13 DSBG vessels to fish year-round in areas within the EEZ off the U.S. West Coast. Aside from the exemption described above, vessels fishing under an EFP would be subject to all other regulations implementing the HMS FMP, including measures to protect sea turtles, marine mammals, and seabirds. The three applicants requested EFP issuance for two fishing seasons or the 2017 and 2018 calendar years.

The Council suggested NMFS impose requirements on the Stephens EFP consistent with one of the existing EFPs, including, but not limited to:

- (1) 30 percent observer coverage on each vessel’s fishing trips;
- (2) fishing only in federal waters; and
- (3) the operator of the fishing vessel operating under a DSBG EFP must actively tend all gear at all times and maintain the gear within sight (typically within 2 – 4 nautical miles of the gear) of the EFP participant fishing vessel.

NMFS is seeking public comment on the extension of the two existing EFPs, as well as the Stephens EFP application and the Council's recommended conditions.

In accordance with NOAA Administrative Order 216-6, appropriate National Environmental Policy Act documents will be completed prior to the issuance of the EFPs. Additionally, NMFS will consider all applicable laws, including Section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), to determine if the proposed action is likely to jeopardize the continued existence and recovery of any endangered or threatened species or result in the destruction or adverse modification of critical habitat.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 11, 2016.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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